MEDI-CAL DRUG REVIEW

PROCEDURES

October 7, 1998

MEDI-CAL DRUG REVIEW PROCEDURES

This document represents the standard drug evaluation procedures used by the Department of Health Services (Department) that incorporate specific criteria (safety, efficacy, misuse potential, essential need, and cost) to be used by the Medi-Cal Contract Drug Advisory Committee (MCDAC) and Department staff in the Medi-Cal Contracting Section for making recommendations and decisions regarding addition, deletion, or retention of drugs on the Medi-Cal List of Contract Drugs (List).

The drugs subject to review are those that would be dispensed to fee-for-service Medi-Cal beneficiaries and billed by pharmacy providers. State law provides that any drug approved by the FDA for the treatment of cancer, AIDS, or an AIDS-related condition must be added to the List and, therefore, are exempt from the review procedures outlined in this document.

The Medi-Cal Contracting Section will retain all records associated with recommendations and decisions regarding addition, deletion, or retention of drugs on the List for a period of two years.

Drug Evaluation Criteria

Welfare and Institutions (W&I) Code Section 14105.39(d)(1) and (2) define the drug evaluation criteria as follows:

"Section 14105.39. (d)(1) To ensure that the health needs of Medi-Cal beneficiaries are met consistent with the intent in this chapter, the department shall, when evaluating a decision to execute a contract, and when evaluating drugs for retention on, addition to, or deletion from, the list of contract drugs, use all of the following criteria:

(A) The safety of the drug.
(B) The effectiveness of the drug.
(C) The essential need for the drug.
(D) The potential for misuse of the drug.
(E) The cost of the drug.

(2) The deficiency of a drug when measured by one of these criteria may be sufficient to support a decision that the drug should not be added or retained, or should be deleted from the list. However, the superiority of a drug under one criterion may be sufficient to warrant the addition or retention of the drug, notwithstanding a deficiency in another criterion."

The Department's consideration of the five criteria is based on the definitions found in Section 51313.6 of Title 22, California Code of Regulations. Those definitions are as follows:

(1) *Safety*. "... the relative freedom from side effects and is determined by reviewing the contraindications, precautions, warnings, adverse effects, and drug interactions associated with the use of the drug. Evaluation of safety may involve a single drug or comparisons between two or more drugs, and may take into account such factors as safety of alternative methods of treatment, or the relationship of safety of a drug to the severity of prognosis of the medical conditions for which the drug is indicated."

(2) *Efficacy.* "... the speed, duration, and extent to which a drug will alleviate, control, or cure a medical condition. Evaluation of efficacy may involve a single drug or comparisons between two or more drugs, and may take into account such factors as efficacy of alternative methods of treatment."

(3) *Essential Need.* "... the availability of a drug through the Medi-Cal List of Contract Drugs is necessary to protect life or prevent significant disability. Evaluation of essential need may involve a single drug or comparisons between two or more drugs, and may take into account such factors as the availability of alternative methods of treatment, the incidence, severity and prognosis of the medical conditions for which a drug is indicated; whether a drug is a lifesaving agent or palliative in effect; or whether a drug may provide treatment for a medical condition not adequately treated by any marketed drug."

(4) *Misuse Potential.* "... the opportunity for unjustified, inappropriate, irresponsible, or improper use of a drug. Evaluation of unjustified, inappropriate, or irresponsible use may take into account such factors as utilization of a drug where there is insufficient medical necessity for its use; continued use of a drug despite loss of effectiveness; utilization of a drug where the drug is a mixture and less than the total number of active ingredients may suffice; or utilization of a drug where a less costly but equally safe and efficacious drug may be used. Evaluation of improper use may involve a single drug or comparisons between two or more drugs, and may take into account such factors as utilization of a drug in a manner that deviates from approved medical, legal, or social standards."

The Department, as well as the FDA, acknowledge that off-label use of drugs (i.e., uses that are not FDA approved) in the practice of medicine may be appropriate, and as such, is not considered illegal or unethical. However, because the off-label use often results in increased use in the marketplace, the Department takes such use into consideration when calculating cost and product usage. The Department only considers off-label use a "misuse potential" when the use of the product is inappropriate according to the medical community. Medical literature, staff, academic, and provider experience is utilized to confirm what off-label uses are inappropriate.

(5) *Cost.* "...the potential fiscal impact of the proposed change on the Medi-Cal drug program or the Medi-Cal program. Evaluation of cost may involve a single drug or comparisons between two or more drugs, and may take into account, but is not limited to, difference of unit cost as defined in Section 51513(a)(13), differences of cost of total treatment, or cost of alternative methods of treatment."

Since off-label use of drugs is a reality in the marketplace, the Department takes such use into consideration when calculating costs and product usage.

As part of the cost evaluation, the Department considers pharmacoeconomic data presented by the manufacturer related to the comparison of two or more treatment alternatives having identical outcomes (Cost-Minimization Analysis), the comparison of treatment alternatives which have different cost and treatment outcomes associated with them (Cost-Benefit Analysis), or the comparison of total health care system cost of treatment alternatives having similar treatment outcomes (Cost-effective-Analysis).

The guidelines for reviewing pharmacoeconomic models/studies relative to evaluating the cost criterion are as follows:

1. Studies used to support pharmacoeconomic claims must be of sufficient scientific rigor to assure confidence in the claimed effects. Study designs and measurements must reflect current scientific standards.

2. Baseline data should be reflective of the population covered by the Medi-Cal program.

3. Baseline data should be reflective of the Medi-Cal program.

4. Cost data should be reflective of the Medi-Cal program's reimbursement methods.

5. Realistic offsets for drug displacement (including single-source and multi-source drugs) should be included along with data quantifying therapeutic category growth.

Medi-Cal Contract Drug Advisory Committee

State law (W & I Code Section 14105.4) specifies that a Medi-Cal Contract Drug Advisory Committee appointed by the Department Director is required to make recommendations to the Department as to the addition or the deletion of any drug from the List and that these recommendations are to be in accordance with the five evaluation criteria previously described.

DRUG REVIEW/EVALUATION PROCEDURES

Individual drugs may be reviewed and evaluated either as individual drug petitions or as part of a Therapeutic Category Review as outlined below.

Individual Drug Petition Review Procedures

Individual drug petition reviews occur as a result of manufacturer requests, physician or pharmacist requests, or self-initiation by the Department. The Department will not begin a drug petition review unless the product has received approval for marketing by the federal Food and Drug Administration *and* the product is available on the market.

The Chief of the Pharmaceutical Unit logs in each petition received by manufacturers and assigns a pharmacist to coordinate the review of a group of drugs on a flow basis. Individual drug petitions may be deferred to a TCR if such a review is currently scheduled or is planned. Manufacturer-initiated petitions for FDA-approved, P-rated (Priority Review) drug products are given expedited review by the Department; see "Fast-Track Review".

Petitions

To be considered complete, the petition must contain at least the following information regarding the drug product:

- A letter specifically requesting addition to the List.
- A copy of the FDA approval letter.
- The FDA's approved labeling. (e.g., product package insert, product monograph)
- The FDA classification as to chemical type and therapeutic potential (e.g., 1P, 3S, etc) designating the drug product *at the time of approval.*

The above minimum information is sufficient for the Department to initiate the review and evaluation of a single drug petition. However, the Department will require additional information during the review process. Manufacturers are encouraged to provide the Department with detailed therapeutic (e.g., clinical studies) and cost information (e.g., the current Average Wholesale Price (AWP) for all package sizes as reported by First DataBank, the Average Manufacturer Price per the federal Medicaid rebate agreement, pharmacoeconomic studies, etc.) as early as possible in the review process to expedite the overall evaluation.

Notification

The Department will notify manufacturers by mail of petitioned products that the review has been initiated. The notification includes at least the following:

- Identification of the regulatory/statutory five criteria (effectiveness, safety, essential need, misuse potential, and cost of the drug) used to evaluate the drug.
- Specification of manufacturer contract negotiation time frames and Department expectations regarding the manufacturer's business proposal.
- Information on how to handle manufacturer contacts with the MCDAC and associated time frames (except when MCDAC review is not necessary; see

"Analytical Process" below).
- Identification and phone number for the Department pharmacist assigned to coordinate the review.

Analytical Process

The Department sends a letter to the MCDAC within 90 calendar days of the date of the petition requesting their review of the petitioned drugs and sends a copy of the letter to PhRMA. While petitions for the addition of new drug strengths, dosage forms, and product formulations of already-listed drugs do not generally go to the MCDAC for review, occasionally, the Department may seek their advice. The letter to the MCDAC includes, at least, the following:

- Generic name, brand name, and manufacturer of the drugs to be reviewed.
- A statement specifying that the review must be based on the regulatory/statutory five criteria of effectiveness, safety, essential need, misuse potential, and cost of each drug.
- A statement recognizing that the required evaluation of the cost will be done without access to manufacturer rebate data, due its confidential nature.
- The response time frame (30 calendar days).
- An enclosed form to indicate, on a drug-by-drug basis, recommendations and comments and with a space for the member to certify, by signature, that his or her recommendation for each drug is based on consideration of the evaluation criteria required by state law.
- A statement requesting that members identify any overriding criteria relative to their recommendations in the comments section of the form.

After receiving the recommendations from the MCDAC, the Department schedules and conducts a meeting with the manufacturer (at their option). The Department's representatives at the meeting will generally include the Chief of the Medi-Cal Contracting Section (contracting officer) and the staff pharmacist who has been assigned to coordinate the review. The purpose of this meeting is to discuss therapeutic considerations, pharmacoeconomic studies, and the business proposal by the manufacturer, such as whether the manufacturer will offer rebates in addition to the federally mandated rebates.

Evaluation

The Department's contracting officer and pharmacist staff next conduct an internal meeting to review and evaluate the drug products. Discussion of each drug product is initiated by the pharmacist assigned to the review. A format is utilized for documenting consideration of each drug product. This format includes the following information at a minimum:

- Generic name, brand name, FDA rating, and manufacturer of the drugs.
- Recommendations of the MCDAC.

- Brief documentation of each of the five regulatory/statutory criteria of safety, efficacy, essential need, misuse potential, and cost.
- Manufacturer's input.
- Pertinent medical literature or other information.
- Department staff analysis.

Negotiations

Following the Department's evaluation of the drugs based on the five evaluation criteria, a price counter offer may be presented to the manufacturer. The manufacturer may accept, reject, or present an alternative to the price counter offer within the time frame requested by the Department.

Decision

The pharmacist assigned to coordinate the review initiates final discussions on the drug product if any additional information and business proposals have been offered by the manufacturer. Upon completion of these discussions, a decision is made whether or not to add the petitioned product to the List.

Decision Notification

The Department then sends a letter regarding the decision to the manufacturer of the drug product with identification and explanation of the five regulatory/statutory criteria upon which the decision was made and sends a copy of the letter to the members of the MCDAC and to PhRMA.

When the decision is that a manufacturer's drug will be added to the Medi-Cal List of Contract Drugs (List), the Department will send a contract to the manufacturer (in some cases, the manufacturer's legal representative will prepare the contract based on boiler plate language provided by the Department). Once the contracting officer receives the contract signed by the manufacturer's representative, the Department's pharmacist staff will develop an Operation Instruction Letter (OIL) to instruct the Department's fiscal intermediary to distribute Medi-Cal bulletins to inform providers of any changes to the Medi-Cal List of Contract Drugs and to take any necessary action for processing provider claims for these drugs.

Manufacturers may contact the pharmacist who coordinated the review to find out the proposed effective date of the drug product addition. The effective date to add a drug is not official until the Medi-Cal provider bulletin is published. Therefore, manufacturers must not announce an effective date prior to Medi-Cal bulletin publication.

Appeals

State law provides that manufacturers denied a contract as a result of an individual petition may appeal that decision with the Director within 30 calendar days of the date of the written notice of the Department's decision. Within 30 calendar days of the manufacturer's appeal, the law requires the Director to request a recommendation regarding the appeal from the MCDAC. The committee must provide this recommendation in writing to the Director within 30 calendar days of the Director's request. The Department will schedule a meeting with the manufacturer and the Department's Deputy Director of Medical Care Services or designee to review any additional information supplied with the appeal. No new financial business proposals will be considered by the Department during the appeal process. However, the appeal process can include further discussion and clarification of the manufacturer's most recent financial business proposal or any proposed fiscal effect that the addition of the drug would have on the Department. The Director must issue a decision within 30 calendar days of the MCDAC recommendation.

Fast-Track Review

New drugs approved by the FDA which are designated P--Priority Review, will be evaluated by the Department within 120 days of receipt of a manufacturer petition (unless the manufacturer requests, in writing, an extension of the evaluation period) subject to the following conditions:

1. The petition is complete (see above under "Petitions").

2. The manufacturer responds to requests for information (including counter offers) within reasonable time frames specified by the Department to each manufacturer (at all steps in the review and negotiation process).

This 120-day time period for P-designated drugs will include submitting the drug to the MCDAC, evaluating the petition request according to the statutorily-required criteria, completing negotiations with manufacturers, and notification of manufacturers of the Department's decision to add or not add the drug to the List.

Therapeutic Category Review Procedures

Therapeutic Category Reviews (TCRs) are self-initiated by the Department and conducted in accordance with Welfare & Institutions Code Section 14105.37. Much of the process is the same as that for individual drug petitions.

Notification

The Department develops a TCR schedule annually and makes it available to the public upon request. This schedule will also soon be available on the Internet. A copy is mailed to the local representative of the Pharmaceutical Research and Manufacturers of America (PhRMA) and the

MCDAC. The schedule includes a disclaimer statement that it is subject to change with adequate notification.

The first day of the 150-day negotiation period for a TCR is the date of the letter from the Department notifying affected manufacturers of the start of the TCR. A copy of this letter is sent to PhRMA and includes, at least, the following:

- Identification of the TCR and subcategories, if any, and the drug products involved.
- Reference to pertinent state law.
- Identification of the regulatory/statutory five criteria of: effectiveness, safety, essential need, misuse potential, and cost of the drug.
- Specification of manufacturer contract negotiation time frames and Department expectations regarding the manufacturer's business proposal.
- Information on how to handle manufacturer contacts with the MCDAC and associated time frames.
- Identification and phone number for the Department pharmacist assigned to coordinate the TCR.

Analytical Process

The Department sends a letter to the MCDAC one week after manufacturer notification, requesting their review of the TCR drugs; a copy is sent to PhRMA . The letter includes, at least, the following:

- Generic name, brand name, and manufacturer of the drugs to be reviewed.
- A statement specifying that the review must be based on the regulatory/statutory five criteria of effectiveness, safety, essential need, misuse potential, and cost of each drug.
- A statement recognizing that the required evaluation of the cost will be done without access to manufacturer rebate data, due its confidential nature.
- The response time frame (usually 30 calendar days).
- An enclosed form to indicate, on a drug-by-drug basis, recommendations and comments and with a space for the member to certify, by signature, that his or her recommendation for each drug is based on consideration of the evaluation criteria required by state law.
- A statement requesting that members identify any overriding criteria relative to their recommendations in the comments section of the form.

The Department and PhRMA will continue to explore the feasibility of seeking additional outside consultation such as through the California Medical Association and the California Pharmacists Association as part of the TCR.

After receiving the recommendations from the MCDAC, the Department schedules and conducts a meeting with each manufacturer (at their option) between days 45 and 60 of the start of the TCR. The Department's representatives at the meeting will generally include the Chief of the Medi-Cal Contracting Section (contracting officer) and the staff pharmacist who has been assigned to coordinate the TCR. The purpose of this meeting is to discuss therapeutic considerations, pharmacoeconomic studies, and the business proposal by the manufacturer, such as whether the manufacturer will offer rebates in addition to the federally mandated rebates.

Evaluation

The Department's contracting officer and pharmacist staff next conduct an internal meeting to review and evaluate the drug products. Discussion of each drug product is initiated by the pharmacist assigned to the TCR. A format is utilized for documenting consideration of each drug product. This format includes the following information at a minimum:

- Generic name, brand name, FDA rating, and manufacturer of the drugs.
- Recommendations of the MCDAC.
- Brief documentation of each of the five regulatory/statutory criteria of safety, efficacy, essential need, misuse potential, and cost.
- Manufacturer's input.
- Pertinent medical literature or other information.
- Department staff analysis.

Negotiations

State law regarding TCRs requires the Department to terminate all negotiations within 150 calendar days of the initial notification to manufacturers. Following the Department's evaluation of the drugs based on the five evaluation criteria, the Department may present a price counter offer to the manufacturer. The manufacturer may accept, reject, or present an alternative to the counter offer within the time frame requested by the Department. Manufacturers' acceptance of contract offers must be completed within the 150 days and no new offers may be accepted beyond the 150 days.

Decision

Prior to the end of the negotiation period, the staff will present their recommendations to the Director for approval.

Decision Notification

After receiving approval from the Director, the Department sends a letter indicating the decisions for every product included in the TCR to all the manufacturers whose products were reviewed, and sends a copy of the letter to the MCDAC and PhRMA. A more detailed identification and

explanation of the five regulatory/statutory criteria upon which the decision was made regarding a specific manufacturer's drug is available to that manufacturer upon written request from that manufacturer.

When the decision is that a manufacturer's drug will be added to, or retained on, the List, the Department will send a contract to the manufacturer (in some cases, the manufacturer's legal representative will prepare the contract based on boiler plate language provided by the Department). Once the contracting officer receives the contract signed by the manufacturer's representative, the Department's pharmacist staff will develop an Operation Instruction Letter (OIL) to instruct the Department's fiscal intermediary to distribute Medi-Cal bulletins to inform providers of any changes to the Medi-Cal List of Contract Drugs and to take any necessary action for processing provider claims for these drugs.

Manufacturers may contact the pharmacist who coordinated the TCR to find out the proposed effective dates of the drug product addition. The effective date to add a drug is not official until the Medi-Cal provider bulletin is published. Therefore, manufacturers must not announce an effective date prior to Medi-Cal bulletin publication.

Any proposed deletions of drugs from the Medi-Cal List of Contract Drugs as a result of the TCR are subject to the public hearing process pursuant to provisions of Welfare & Institutions Code Section 14105.38.

Appeals

State law provides that manufacturers denied a contract as a result of the TCR may appeal that decision with the Director within 30 calendar days of the date of the written notice of the Department's decision. Within 30 calendar days of the manufacturer's appeal, the law requires the Director to request a recommendation regarding the appeal from the MCDAC. The committee must provide this recommendation in writing to the Director within 30 calendar days of the Director's request. The Department will schedule a meeting with the manufacturer and the Department's Deputy Director of Medical Care Services or designee to review any additional information supplied with the appeal. No new financial business proposals will be considered by the Department during the appeal process. However, the appeal process can include further discussion and clarification of the manufacturer's most recent financial business proposal or any proposed fiscal effect that the addition of the drug would have on the Department. The Director must issue a decision within 30 calendar days of the MCDAC recommendation.